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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:
POTENTIAL DYNAMIX LLC,
Debtor.

Case No. 2:11-bk-28944-DPC
Chapter 11
Adv. No. 2:13-ap-00799

TIMOTHY H. SHAFFER, Chapter 11
Trustee,
Plaintiff,
vs.
AMAZON SERVICES LLC,
Defendant.

**DECLARATION OF ERIC J.
WEISS IN SUPPORT OF
AMAZON SERVICES LLC'S
POST-TRIAL MOTION TO
EXCLUDE PREJUDGMENT
INTEREST**

1 I, Eric J. Weiss, declare as follows:

2 1. I am an attorney with Perkins Coie LLP, and we represent Defendant Amazon
3 Services LLC (“Amazon”) in this adversary proceeding. I am over the age of 18 and
4 competent to testify to the matters in this Declaration. I make this Declaration based on my
5 personal knowledge and the files and records in this matter.

6 2. In 2015, one of the Trustee’s now-former testifying expert witnesses, Cathie
7 Cameron, prepared three expert reports. In response to the Court’s 2019 discovery order,
8 the Trustee produced those reports at beginning Bates numbers PD005243,
9 Shaffer19000439, and Shaffer19000608.

10 3. In 2017, one of the Trustee’s now-former testifying expert witnesses, Stephen
11 A. Ashworth, prepared two expert reports. In response to the Court’s 2019 discovery order,
12 the Trustee produced those reports at beginning Bates numbers PD005435 and PD005478.

13 4. After the production of the M15 data in May 2015 until the Trustee’s eventual
14 production of an expert report in May 2019, Amazon agreed multiple times to allow the
15 Trustee to extend the deadline to produce an expert report.

16 5. In November and December 2019, the Trustee produced expert documents in
17 response to the Court’s October 2019, order requiring the production of such documents.

18 6. Attached to this Declaration as **Exhibit A** are true and correct copies of
19 excerpts from the deposition of Serena Morones.

20 7. Attached to this Declaration as **Exhibit B** are true and correct copies of
21 excerpts from the deposition of Jeffrey A. Cone.

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1 I declare under penalty of perjury that the foregoing is true and correct to the best of
2 my knowledge.

3 Executed this 12th day of March, 2021, at Seattle, Washington.

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6 By: _____

7 Eric J. Weiss
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Exhibit A

Exhibit A

1 UNITED STATES BANKRUPTCY COURT
2 FOR THE DISTRICT OF ARIZONA
3

4 IN RE:

5 POTENTIAL DYNAMIX LLC,
6 Debtor.

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TIMOTHY H. SHAFFER,
Chapter 11 Trustee,
Plaintiff,

vs.

Case No. 2:11-bk-28944-DPC

Chapter 11

AMAZON SERVICES, LLC, Adv. No. 2-13-ap-00799
Defendant.

VIDEOTAPED DEPOSITION OF

SERENA MORONES

Portland, Oregon

Tuesday, August 18, 2020 9:10 a.m.

Job No.: 313759

Pages: 1 - 276

Stenographically Reported By:

Alison C. Webster, CSR-6266, RPR, RMR, CRR, RDR

1	no corresponding entry in the settlement reports	01:24:35
2	showing that payment was made from Amazon to the	01:24:39
3	debtor, you concluded that it means Amazon did not pay	01:24:41
4	the debtor. Is that --	01:24:47
5	A. That's correct.	01:24:49
6	Q. Thank you. Okay. Did someone instruct you to include	01:24:49
7	damages for sales proceeds not remitted to Potential	01:25:02
8	Dynamix in your report?	01:25:05
9	A. No.	01:25:11
10	Q. Why is it in your report?	01:25:12
11	A. Because I observed the existence of data in the M15	01:25:15
12	data that did not appear in the settlement data and I	01:25:19
13	believed that that was an important category of	01:25:26
14	damages to consider after having evaluated the	01:25:31
15	comparison between the two datasets, keeping in mind	01:25:37
16	what you questioned Mr. Cone about yesterday. Even	01:25:43
17	the -- the date issue, date gaps in the settlement	01:25:48
18	data, I -- I still believed that this was an important	01:25:55
19	and credible damage category.	01:25:58
20	Q. I'm just -- I'm just looking at your answer here.	01:26:00
21	Ms. Morones, what are the settlement	01:26:17
22	reports on which you relied to form your opinion at	01:26:43
23	number 4?	01:26:46
24	A. Those reports are electronic data files that were	01:26:49
25	transmitted from Amazon to the debtor that accompanied	01:26:55

1	adjustment transaction codes meant. And so it was	05:07:43
2	helpful for Mr. Cone and I to gather background	05:07:53
3	information and understand the history of the case,	05:07:59
4	understand what he had done to date in studying the	05:08:04
5	data, understanding the volume and scope of the data.	05:08:07
6	So those were some of the ways that he was helpful.	05:08:13
7	Q. What was his story?	05:08:15
8	A. I am sure someone will ask him that tomorrow. It's a	05:08:27
9	very long story. He -- he explained that he was --	05:08:30
10	worked as a consultant -- engaged as a consultant to	05:08:34
11	assist with inventory issues with the debtor; that he	05:08:38
12	obtained the settlement data -- some of the settlement	05:08:44
13	data; that he began to analyze it and work with	05:08:47
14	Timothy Shaffer in understanding the inventory	05:08:55
15	position of the company and what might be potential	05:09:00
16	unaccounted inventory or inventory that needed to have	05:09:04
17	claims placed for it.	05:09:08
18	Q. Was your assignment from the trustee to validate	05:09:12
19	Mr. Ashworth's analysis?	05:09:15
20	A. Initially. That was the first -- first phase of my	05:09:18
21	assignment was to take a look at Mr. Ashworth's	05:09:22
22	analysis and determine whether it was adequately	05:09:30
23	supported and give me input about what -- what I	05:09:32
24	thought about it.	05:09:34
25	Q. You said that his beliefs -- one of the things that	05:09:35

1	time, sort of, keeping up with his rationale or	05:15:06
2	reasons for wanting to send us information.	05:15:13
3	Q. I want to make sure you -- we were talking about the	05:15:17
4	things that you found him helpful for. I want to be	05:15:21
5	very clear about my question here. We discussed	05:15:24
6	earlier how Mr. Ashworth helped you in comparing your	05:15:27
7	report and you identified a few items. Are there any	05:15:30
8	other ways that Mr. Ashworth helped you with your --	05:15:36
9	with your preparation of your opinions in your report?	05:15:41
10	A. There's nothing that I haven't described or discussed	05:15:52
11	coming to mind.	05:15:57
12	Q. Was there a point during which -- strike that.	05:15:58
13	Was there a point during your working	05:16:05
14	relationship with Mr. Ashworth in this case where you	05:16:07
15	concluded he was just no longer helpful to you?	05:16:10
16	A. There was -- I wouldn't necessarily say we concluded	05:16:30
17	that he was no longer helpful. There was a point	05:16:32
18	where Mr. Cone and I decided to proceed with the	05:16:35
19	analysis largely on our own without -- without his	05:16:42
20	input.	05:16:44
21	Q. And if Amazon -- I'm sorry, it sounded like you might	05:16:47
22	have had more there.	05:16:50
23	A. No, it's fine. I'm finished.	05:16:51
24	Q. Don't stop because you thought I was going to ask my	05:16:56
25	next question. Did you have more information to share	05:16:59

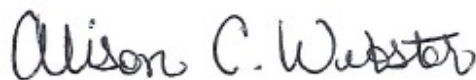
CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF OAKLAND)

I, ALISON WEBSTER, certify that the deposition of SERENA MORONES was taken before me via videoconference on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.



ALISON C. WEBSTER, CSR-6266, RPR, RMR, CRR, RDR
Notary Public,
Oakland County, Michigan.

My Commission expires: May 1, 2023

PLANET DEPOS

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Exhibit B

Exhibit B

1 UNITED STATES BANKRUPTCY COURT
2 FOR THE DISTRICT OF ARIZONA
3

4 IN RE:

5 POTENTIAL DYNAMIX LLC,
6 Debtor.

7
8 TIMOTHY H. SHAFFER,
9 Chapter 11 Trustee,
10 Plaintiff,

11 vs.

Case No. 2:11-bk-28944-DPC

12 Chapter 11

13 AMAZON SERVICES, LLC,
14 Defendant.

Adv. No. 2-13-ap-00799

15
16
17 VIDEOTAPED DEPOSITION OF

18 JEFFREY CONE

19 Mulino, Oregon

20 Monday, August 17, 2020

21 9:09 a.m.

22 Job No.: 313756

23 Pages: 1 - 199

24 Stenographically Reported By:

25 Alison C. Webster, CSR-6266, RPR, RMR, CRR, RDR

1	A.	I know she was being engaged as a testifying expert	09:54:28
2		witness.	09:54:30
3	Q.	What was your understanding of Ms. Morones's role in	09:54:31
4		the matter?	09:54:54
5		MR. SCHIAN: Objection, lack of foundation.	09:54:55
6	BY MS. WEBSTER:		09:54:56
7	Q.	Go ahead.	09:54:57
8	A.	That she was going to be the testifying expert.	09:54:59
9	Q.	Okay. What work did you understand that she was going	09:55:02
10		to do in -- to fulfill that role?	09:55:08
11		MR. SCHIAN: Same objection.	09:55:10
12	A.	To -- to gain a thorough understanding of the	09:55:12
13		information and, ultimately, to opine on what damages	09:55:17
14		she thought she -- that we -- that Morones Analytics	09:55:23
15		determined were reasonable and supportable.	09:55:33
16	BY MS. WEBSTER:		09:55:35
17	Q.	And how did you understand that your work with the	09:55:35
18		data would relate to Ms. Morones's work on damages?	09:55:38
19		Her opinions on damages?	09:55:45
20	A.	That Ms. Morones needed me to help her digest --	09:55:48
21		understand, digest, analyze, understand the voluminous	09:55:54
22		amount of data involved in this case, in general.	09:56:00
23		More specifically, the Amazon productions of -- I --	09:56:05
24		that we -- I think -- that we were -- that we referred	09:56:10
25		to in the expert report as the M15 data as well as the	09:56:12

1	Seller Central data.	09:56:20
2	Q. And when you say "Seller Central data," to what are	09:56:23
3	you referring to?	09:56:27
4	A. My -- my understanding is that Amazon maintained a	09:56:28
5	website called Seller Central that people,	09:56:34
6	representatives of Potential Dynamix, accessed to	09:56:39
7	under -- to get -- to retrieve information about what	09:56:42
8	settlement reports were saying or -- or access to the	09:56:48
9	settlement reports as well as to monitor inventory	09:56:53
10	levels.	09:56:56
11	Q. Okay. So when you state Seller Central data, are you	09:56:58
12	referring only to the settlement reports or are you	09:57:02
13	referring to settlement reports and something else?	09:57:05
14	A. I'm referring to settlement reports and other	09:57:09
15	information that was downloaded from Seller Central	09:57:11
16	by, I believe, Mr. Ashworth and possibly other	09:57:17
17	people -- other representatives of Potential Dynamix	09:57:20
18	that was ultimately given to me.	09:57:28
19	Q. What information was downloaded from Seller Central?	09:57:31
20	A. Besides the settlement reports?	09:57:34
21	Q. Yes. Besides the settlement reports, what other	09:57:36
22	information, to your knowledge, was downloaded from	09:57:38
23	Seller Central?	09:57:40
24	A. I would have to go back to my file to completely	09:57:41
25	answer that, but, in general, there was inventory	09:57:48

CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF OAKLAND)

I, ALISON WEBSTER, certify that the deposition of JEFFREY CONE was taken before me via videoconference on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.



ALISON C. WEBSTER, CSR-6266, RPR, RMR, CRR, RDR
Notary Public,
Oakland County, Michigan.

My Commission expires: May 1, 2023

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